

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ROBERT JAMES STEWART,  
Plaintiff,  
vs.  
LONNY R. SUKO, et al.,  
Defendants.

NO. CV-08-165-JPH

ORDER ADOPTING REPORT AND  
RECOMMENDATION, DENYING *IN FORMA*  
*PAUPERIS* STATUS AND DISMISSING  
ACTION

Magistrate Judge Hutton filed a Report and Recommendation on July 21, 2008, recommending Mr. Stewart be denied *in forma pauperis* status and that his action be dismissed. On August 7, 2008, the court received Plaintiff's "Objections to James P. Hutton United States Magistrate Judge" (Ct. Rec. 11). Mr. Stewart does not object to any specific recommendation made by Magistrate Judge Hutton; he merely states he did not agree for a Magistrate Judge to "hear or make rulings in the above matters."

Although a Magistrate Judge may not issue a dispositive ruling in a civil case without the consent of the parties, a Magistrate Judge is authorized to submit a Report and Recommendation of disposition to the referring district judge. See LMR 4(a)(3), Local Rules for the Eastern District of Washington. That has been done. Mr. Stewart was granted

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1 the requisite 10 days to file his objections to the content of the  
2 Report and Recommendation. He has not done so. There being no actual  
3 objections, the court **ADOPTS** the Report and Recommendation (Ct. Rec.  
4 6). **IT IS ORDERED** any request to proceed without prepayment of the  
5 filing fee is **DENIED** and the complaint is **DISMISSED** under 28 U.S.C. §  
6 1915(e)(2)(B), for failure to state a cognizable claim upon which  
7 relief may be granted. The court notes Mr. Stewart initiated this  
8 action while he was incarcerated.

9 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a  
10 prisoner who brings three or more civil actions or appeals which are  
11 dismissed as frivolous or for failure to state a claim will be  
12 precluded from bringing any other civil action or appeal *in forma*  
13 *pauperis* "unless the prisoner is under imminent danger of serious  
14 physical injury." 28 U.S.C. § 1915(g). Plaintiff is advised to read  
15 the new statutory provisions under 28 U.S.C. § 1915. This dismissal  
16 of Plaintiff's complaint may count as one of the three dismissals  
17 allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to  
18 file future claims.

19 **IT IS SO ORDERED.** The District Court Executive is directed to  
20 enter this Order, forward a copy to Plaintiff at his last known  
21 address, enter judgment, and **close the file.** The District Court

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1 Executive is further directed to forward a copy of this Order to the  
2 Office of the Attorney General of Washington, Criminal Justice  
3 Division.

4 **DATED** this 29<sup>th</sup> day of August 2008.

5  
6 s/Robert H. Whaley  
7 ROBERT H. WHALEY  
8 CHIEF UNITED STATES DISTRICT JUDGE

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